

Doc Code: **PTO/PRE.REQ**

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 31132.67	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>4-5-06</u> Signature <u>Bonnie Boyle</u> Typed or printed name <u>Bonnie Boyle</u>		Application Number 09/744,493	Filed June 19, 2001
		First Named Inventor Vincent BRYAN, et al.	
		Art Unit 3738	Examiner Alvin J. Stewart
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 42,044 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".</p>			
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



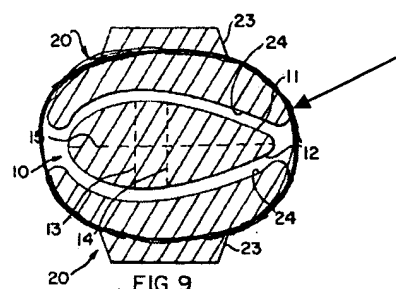
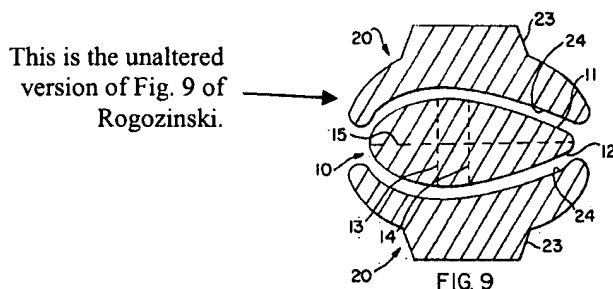
REASONS

In the Final Office Action mailed March 22, 2006, claims 1-11, 13, 15, and 18-23 were pending and under consideration. Claims 1-10, 13, 15, and 18-21 are allowed. Claims 11, 22, and 23 were rejected.

Independent claims 11 and 22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Rogozinski (5,888,226). It is respectfully submitted that there are clear errors with the examiner's rejection. More specifically, and as described below, the rejection has clear legal deficiencies because the asserted prior art lacks essential elements needed to establish a prima facie rejection with respect to each claim. The PTO specifies in MPEP §2131 that, to anticipate a claim, a reference must teach each and every element recited in the claim.

"a hollow cylindrical housing"

A first clear error is that the limitation of "a hollow cylindrical housing" (independent claims 11 and 22) is missing from Rogozinski. The Examiner has focused his rejection of this element on Fig. 9 of Rogozinski, which has been reproduced below. The Examiner's modification of Fig. 9 from the Final Office Action of March 22, 2006 is also shown.



The Examiner drew this dark-lined shape in the latest Office action.

Applicant submits that Rogozinski clearly does not disclose a "a hollow cylindrical housing". As illustrated, the shapes of the housing 20 identified by the Examiner are clearly not cylindrical.

"a hollow cylindrical housing with a substantially circular outer cross-section"

Further, the additional limitation of claim 11 requiring the hollow cylindrical housing to have "a substantially circular outer cross-section" is clearly not met. Even Examiner's modification of Fig. 9, shown above, does not have a substantially circular outer cross-section.

Applicants have therefore shown two clear legal deficiencies. Consequently, the rejections are clearly not proper and without basis. It is therefore respectfully requested that the rejections be withdrawn.

Respectfully submitted,



David M. O'Dell
Registration No. 42,044
(972) 739-8635

Date: April 5, 2006

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: (972) 739-8635
Facsimile: (214) 200-0853
File: 31132.67

R-132710.1